

**CHAPTER NO. 434**

**SENATE BILL NO. 92**

**By Springer**

Substituted for: House Bill No. 368

By Kernell, Garrett, Brooks

AN ACT To amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 63, Chapter 17, relative to the council for hearing instrument specialists.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-220(a), is amended by deleting item (30) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 4-29-226(a), is amended by adding a new item thereto, as follows:

( ) Council for hearing instrument specialists, created by Section 63-17-202;

SECTION 3. Tennessee Code Annotated, Section 63-17-219, is amended by designating the existing language as subsection (a) and by adding the following new subsections thereto:

(b) The council shall promulgate rules governing the assessment of costs against a licensee or other person found by the council to have violated any provision of this chapter. The costs assessed by the council may include only those costs directly related to the prosecution of the charges against the licensee or other person, including investigatory costs where appropriate. The council shall determine the appropriate amount of costs, if any, to be assessed in a contested case. These costs shall be reasonable and proportionate in light of the violation committed by the licensee or other person.

(c)(1) Any elected officer of the council, or any duly appointed or elected chair has the authority to administer oaths to witnesses. Upon probable cause being established, the council, by a vote of two-thirds (2/3) of the members to which the council is entitled, may issue subpoenas for the attendance of witnesses and the production of documents and records.

(2) Service of a subpoena issued by the council shall be made by the sheriff of the county of residence of the licensee or person upon whom the subpoena is served.

(3)(A) A licensee or person served by subpoena shall have thirty (30) days to request in writing a hearing before the council for the sole purpose of making a special appearance to quash or modify the subpoena. The subpoena for attendance of the person or the production of books and records shall be stayed until the council votes upon the request to quash or modify the subpoena. A majority vote of the members to which the council is entitled shall be required to quash or modify a subpoena.

(B) A motion to appeal from a decision by the council regarding a request to quash or modify a subpoena shall be made to the chancery court in Davidson County within fifteen (15) days of such decision.

(4) If any witness fails or refuses to obey a subpoena issued by it, the council is authorized to make application to any court of record in this state within the jurisdiction of which the witness is found or resides, and the court shall have power to attach the body of the witness and compel the witness to appear before the council and give testimony or produce books, records or papers as ordered, and any failure to obey the court order may be punished by the court issuing the order as a civil contempt.

(5) Each witness who appears before the council by order of the council shall receive for attendance the compensation provided by law for attendance of witnesses in a court of record, which shall be paid from the funds of the council in the same manner as all other expenses of the council are paid.

SECTION 4. This act shall take effect July 1, 1999, the public welfare requiring it.

**PASSED: May 28, 1999**

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 17th day of June 1999**

  
DON SUNDQUIST, GOVERNOR